

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTOPHER M. GATES,

Plaintiff,

Case No. C19-1185-JCC-MLP

V.

KING COUNTY CORRECTIONAL
FACILITY, *et al.*,

Defendants.

**ORDER DIRECTING PLAINTIFF TO
SUPPLEMENT THE RECORD**

This is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff Christopher Gates is proceeding with this action *pro se* and *in forma pauperis*. Currently pending before the Court are Defendants' motions for summary judgment. (Dkt. ## 30, 36.) Upon reviewing Plaintiff's motion, the Court noted references to discovery filings, disclosures, and submissions, none of which were attached to Plaintiff's papers. (See Dkt. # 37 at 3, 5; Dkt. # 43 at 4, 9.) A review of the Court's docket suggests that Plaintiff's reference to discovery materials likely pertains to the materials he submitted to the Court in early April 2021, around the time Defendants filed their summary judgment motion and a month before Plaintiff filed his own summary judgment motion.

**ORDER DIRECTING PLAINTIFF TO
SUPPLEMENT THE RECORD - 1**

1 and his response to Defendants' motion. (See Docket entry dated April 7, 2021; Dkt. ## 30, 36,
 2 37.)

3 Because Fed. R. Civ. P. 5(d)(1)(A) and Local Civil Rule 5(d) both specifically provide
 4 that discovery requests and responses are not to be filed unless they are used in the proceedings,
 5 and because it did not appear Plaintiff was attempting to use the discovery for any specific
 6 purpose at the time it was submitted, the Clerk's Office issued a notice advising Plaintiff that his
 7 discovery documents would not be filed and the documents were mailed back to Plaintiff at his
 8 address of record, the King County Jail.¹ (See *id.*) That mail was thereafter returned to the Court
 9 with a notation indicating that Plaintiff was no longer at the Jail. (See Dkt. # 35.) After the mail
 10 was returned to the Court, the notice sent to Plaintiff on April 7, 2021 was scanned into the
 11 Court's electronic filing system, as was the envelope in which the documents were mailed to
 12 Plaintiff, but the documents themselves were not scanned. (See *id.*) Unfortunately, the Court has
 13 thus far been unable to locate Plaintiff's discovery documents.

14 It is not clear from the materials currently before the Court how pertinent these
 15 documents are to the pending summary judgment motions. Plaintiff references the documents in
 16 a general fashion in his response to Defendants' motion to for summary judgment (Dkt. # 37 at
 17 3, 5), and in a document entitled "Plaintiff's supplemental objections to Defendant's asserted
 18 material falsehoods and reply in support of Plaintiff's Motion for Summary Judgment" (dkt. # 43
 19 at 4, 9). Plaintiff, however, does not cite to any specific document(s) or portions of the submitted
 20 materials to support his factual positions as is required by Fed. R. Civ. P. 56(c)(1). The Court

21 ¹ The cited rules also apply to initial disclosures under Fed. R. Civ. P. 26(a)(1). However, actions brought
 22 by *pro se* prisoners are exempt from the initial disclosure requirement. Fed. R. Civ. P. 26(a)(1)(B)(iv).

1 also observes that Plaintiff's purported objections and reply brief were not timely filed and, thus,
2 are arguably not properly before the Court at this juncture.² (Dkt. # 43.)

3 Despite the various infirmities in Plaintiff's submissions, the Court is reluctant to proceed
4 to disposition of the pending summary judgment motions without giving Plaintiff an opportunity
5 to supplement the record with any discovery materials he deems necessary to support his factual
6 positions. Assuming Plaintiff retained a copy of the discovery materials previously submitted to
7 the Court, he may simply re-file the documents. If Plaintiff did not retain a copy of the
8 documents, he presumably served a copy of the documents on counsel for Defendants, as
9 required by Fed. R. Civ. P. 5(d), and he may therefore be able to confer with Defendants'
10 counsel and arrange for a copy of the documents to be forwarded to the Court.

11 Based on the foregoing, the Court hereby ORDERS as follows:

12 (1) Plaintiff is directed to RE-SUBMIT his discovery materials not later than *August*
13 **20, 2021**. The parties' pending summary judgment motions (dkt. ## 30, 36) are RE-NOTED on
14 the Court's calendar for consideration on that date.

15 (2) The Clerk is directed to send copies of this Order to Plaintiff, to counsel for
16 Defendants, and to the Honorable John C. Coughenour.

17 Dated this 3rd day of August, 2021.

18 
19 MICHELLE L. PETERSON
20 United States Magistrate Judge

21 ² Plaintiff signed this document on June 17, 2021, and it was received for filing on June 23, 2021. (Dkt. #
22 43.) However, the parties' summary judgment motions were noted for consideration on June 4, 2021, and
any briefing pertaining to those motions was due by that date.